

LF 9033 adv-no obj (11/12)

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON**

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|-----------------------|---|---|
| In re: |) | Case No. 09-06194-FPC11 |
| |) | |
| LLS America, LLC |) | Adv. Proc. No. 11-80299-FPC |
| Debtor(s) |) | |
| |) | DC Case No. CV-11-357-RMP |
| |) | |
| Bruce P. Kriegman |) | TRANSMITTAL OF PROPOSED |
| Plaintiff |) | FINDINGS OF FACT AND CONCLUSIONS |
| |) | OF LAW AND CERTIFICATION THAT |
| Mark Bigelow, et al., |) | OBJECTIONS HAVE NOT BEEN FILED |
| Defendant |) | |

To: United States District Court
Eastern District of Washington
PO Box 1493
Spokane, WA 99210-1493

Case Name: LLS America, LLC

Bankruptcy Case #: 09-06194-FPC11

Adversary #: 11-80299-FPC

Bankruptcy Judge: Frederick P. Corbit

From: United States Bankruptcy Court
Eastern District of Washington
PO Box 2164
Spokane, WA 99210-2164

Notice was provided to the parties as required by FRBP 9033(a). The time for filing objections has expired and none have been filed.

Dated: March 4, 2014

Clerk, U.S. Bankruptcy Court

by: /s/ Kerrie Masters

Deputy Clerk

So Ordered.



Frederick P. Corbit

Frederick P. Corbit
Bankruptcy Judge

Dated: February 14th, 2014

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:

LLS AMERICA, LLC,

Debtor.

BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America, LLC,

Plaintiff,

vs.

MARK BIGELOW, et al.,

Defendants.

DC Case No. CV-11-357-RMP

Case No. 09-06194-FPC11

Adversary No. 11-80299-FPC11

REPORT AND RECOMMENDATION
RE: DEFAULT JUDGMENT
AGAINST DEFENDANT MIKE
TULLOS

The Honorable Frederick P. Corbit, sitting in the United States Bankruptcy Court for the Eastern District of Washington, hereby files this Report and Recommendation regarding plaintiff's Motion for Entry of Default Judgment Against Defendant Mike Tullos (ECF No. 619) filed with the bankruptcy court in this adversary proceeding.

1 This Report and Recommendation is made pursuant to the Honorable Rosanna
2 Malouf Peterson's Order Granting Joinder and Withdraw of Reference and Referring
3 Back to Bankruptcy Court for Further Proceedings entered on April 25, 2012 (ECF
4 No. 28) in district court case number CV-11-357-RMP.

5 The recommendation is that plaintiff's Motion for Entry of Default Judgment
6 Against Defendant Mike Tullos (ECF No. 619) be granted and the attached Default
7 Judgment be entered in this adversary proceeding. The basis for this recommendation
8 is that an Order of Default Against Defendant Mike Tullos was entered in the
9 bankruptcy court on November 20, 2013 (ECF No. 595).

10 ///END OF REPORT AND RECOMMENDATION///
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

In Re:

LLS AMERICA, LLC,

Debtor.

BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America LLC,

Plaintiff,

v.

MARK BIGELOW, et al.,

Defendants.

US District Case No. 11-CV-357-RMP

Bankruptcy No. 09-06194-FPC11

Adversary No. 11-80299-FPC 11

DEFAULT JUDGMENT AGAINST
DEFENDANT MIKE TULLOS

JUDGMENT SUMMARY

1. Judgment Creditor: Bruce P. Kriegman, Liquidating Trustee for
LLS America, LLC, as consolidated
2. Attorneys for Judgment
Creditor: Witherspoon Kelley
3. Judgment Debtors: Mike Tullors

DEFAULT JUDGMENT- 1

{S0838150; 1 }



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Attorneys & Counselors

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Spokane, Washington 99201-0300 Fax: 509.458.2728

4. Attorneys for Judgment
Debtors: Pro Se
5. Judgment Amount
(Principal): \$ 92,164.00 USD
6. Interest Rate on Judgment: .11% (28 USC § 1961)

This Court having previously entered an Order of Default against Defendant Mike Tullos (Ct. Rec. 595), and having reviewed the previously filed Memorandum of Authorities (Ct. Rec. 591), and the Affidavits of Curtis Frye and Shelley Ripley in Support of Plaintiff's Motion for Default Judgment filed herewith, and being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff, Bruce P. Kriegman, solely in his capacity as court-appointed Chapter 11 Trustee for LLS America, LLC, shall have a judgment against the Defendant Mike Tullos as follows:

1. Monetary Judgment in the amount of \$91,914.00 USD, pursuant to 11 U.S.C. § 550 and RCW 19.40.071;

2. Transfers in the amount of \$91,914.00 USD made to the Defendant within four years prior to the Petition Filing Date are hereby avoided and Plaintiff may take all necessary action to preserve the same, pursuant to 11 U.S.C. §§ 544, 550, 551 and 548(a) and (b) and RCW 19.40.041(1) and (2) and RCW 19.40.071;

3. All said transfers to Defendant Mike Tullos are hereby set aside and Plaintiff shall be entitled to recover the same, or the value thereof, from

DEFAULT JUDGMENT- 2

{S0838150; 1 }



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1 Defendant Mike Tullos for the benefit of the estate of LLS America, pursuant to
2 11 U.S.C. §§ 544, 550 and 551;

3 4. All proofs of claim of the Defendant which have been filed or
4 brought or which may hereafter be filed or brought by, on behalf of, or for the
5 benefit of Defendant Mike Tullos or his affiliated entities, against the Debtor's
6 estate, in this bankruptcy or related bankruptcy proceedings, are hereby
7 disallowed and subordinated to the monetary judgment granted herein and
8 Defendant Mike Tullos shall not be entitled to collect on his proof of claim
9 (Claim No. 376) until the monetary judgment is satisfied by Defendant Mike
10 Tullos in full, pursuant to 11 U.S.C. §§ 502(d), 510(c)(1) and 105(a);

11 5. A constructive trust is hereby established over the proceeds of all
12 transfers in favor of the Trustee for the benefit of the estate of LLS America; and

13 6. Plaintiff is hereby awarded costs (i.e. filing fee) in the amount of
14 \$250.00 USD, for a total judgment of \$92,164.00 USD, which shall bear interest
15 equal to the weekly average of one-year constant maturity (nominal) treasury
16 yield as published by the Federal Reserve System.

17 Entered this ____ day of _____, 2014.

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Honorable Rosanna Malouf Peterson

DEFAULT JUDGMENT- 3

{S0838150; 1 }



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1 *Presented by:*

2 WITHERSPOON • KELLEY

3 s/ Shelley N. Ripley

4 Shelley N. Ripley, WSBA No. 28901

5 Daniel J. Gibbons, WSBA No. 33036

6 Attorneys for Plaintiff

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DEFAULT JUDGMENT- 4

{S0838150; 1 }



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